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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,869	03/15/2002	William D. Gehn	R353.12-0002	4462

7590 12/13/2004

WESTMAN, CHAMPLIN & KELLY
Suite 1600
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Minneapolis, MN 55402-3319

EXAMINER

KAUFMAN, JOSEPH A

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/099,869

Applicant(s)

GEHN ET AL.

Examiner

Joseph A. Kaufman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-17,19-21,23-27 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,17 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 1-6,8-11,15,23,24,26 and 34-42 is/are rejected.
- 7) ☒ Claim(s) 12-14,25 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8, 15, 34-40 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Lund.

Lund shows a casing/body portion 14; cone shaped portion 30; flange portion 40 extending around the cone shaped portion; blade(s) 20b or 20c spaced from the flange; the top portion of 14 is cylindrical; ribs 38 that have a longitudinal component; the first and second blades are seen in Figure 6, are integral (they are as one unit) and have an angled surface (Figure 6); tapered discharge cone at 16; enlarge collar portion on the casing as the bulging portion of 14 seen in Figure 1; the transition between the top and the bulging portion is the transversely extending portion; the large arrows in Figure 1 show the passage; the laterally disposed surfaces are seen in Figure 1 between the flange and blade; inlet 12; with regard to claim 40, part 40 is the elongate rib on the inner wall of the casing extending the length of the flow path as seen in Figure 1; and motor assembly 80.

3. Claims 9, 10, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Leight.

Leight shows a casing 12 having an inlet 14; flanged platform 14w; rotatable carousel 22; material container 10 removably supported on the platform; dispensing

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opening at 38; closure 34 slidably disposed to the opening; slidably loading the container is discussed in column 2, lines 58-61; cover 40; slidably removing the cover is discussed in column 2, lines 65-69; and rotating the dispenser is discussed in column 2, lines 42-48.

Note, in claim 9, third line from the end, "diposed" should be "disposed".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leight.

Leight has been discussed above, but lacks the taper from the second to the first end. It would have been obvious to one of ordinary skill in the art to taper the container in order to promote a measured flow out of the container.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leight in view of Goudy, Jr. et al.

Leight has been discussed above, but lacks rotating the carousel in multiple directions. Goudy, Jr. et al. teaches rotating the carousel in a first direction during a first dispensing cycle (when there is no resistance) and a second direction during a second dispensing cycle (when there is resistance) as noted in column 7, lines 30-39, the activation of the device providing the first command and the resistance providing the second command. It would have been obvious to one of ordinary skill in the art to rotate the dispenser in multiple directions as taught by Goudy, Jr. et al. on the device of Leight in order to dislodge blockages that may occur which would permit for more continuous dispensing.

8. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lund in view of Goudy, Jr. et al.

Lund has been discussed above, but lacks rotating the carousel in multiple directions. Goudy, Jr. et al. teaches rotating the carousel in a first direction during a first dispensing cycle (when there is no resistance) and a second direction during a second dispensing cycle (when there is resistance) as noted in column 7, lines 30-39, the activation of the device providing the first command and the resistance providing the second command. It would have been obvious to one of ordinary skill in the art to rotate the dispenser in multiple directions as taught by Goudy, Jr. et al. on the device of Lund in order to dislodge blockages that may occur which would permit for more continuous dispensing.

Allowable Subject Matter

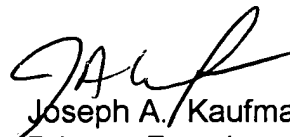
9. Claims 16, 17 and 19-21 are allowed.
10. Claims 12-14, 25 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
12/9/04

jak
December 9, 2004